19/47

File No. L.O.Rs. Accts/47

Legal **DEPARTMENT**

C **BRANCH**

K

A/16.

Subject:— Law Officer's Rule

Correspondence from Law Officers and Pleadings relating to Account Rules contained in Law Officers Rule

P163/E)

File No. L.O.Rs.Accts/47.

Std. Sectt. Slip 24 B e.

93c

C O N T E N T S.

Legal Department Files. L.D.A. Accts./47.

Sr. No.	N.I. / O. No.	Subject	Pages.
	L.D.A. Accts/47.	Law Officers Rules. Correspondence from Law Officers and Pleaders relating to Acctt Rules contained in Law Officers Rules.	
1.	Sind Government L.D. No. S-1(2) L/40/XI dated 13-1-47.	Ref. Erratum for Rule 49(3) of the L.D.R. deleting the word "DAY".	1-A.
2.	N.D. No. 19304 dated 16-11-46.	Ref. Rule 15, Fees in Cr. cases and engagement of two advocates allowed by H.C. and their fees.	1-27.
3.	Notification at 163 by L.D. No. 9983 dated 14-12-46.	Rule for the conduct of Legal Affairs of Government/Amendment of -	80-79. 73-74 not typed
4.	Government Notification No. 4983 dated 15-5-'47 (page 96)	Increase in fees in Revenue Tribunal cases. Amendment to C.P.C. Act 1935 ref. L.D.R.	85-90. 91-94 not typed
5.	Government Notification page 107 No. 9133. dated 12-9-47.	Provision for the Hon. Asstts under Amendment under Rule 47(2) of the L.D.Rules.	101-121. 105-106 not typed 109-128 not typed

EVT. 21/5.

28/5

28/5

S-1(D)4/46/II

GOVERNMENT OF SIND.
Legal Department.
Sind Secretariat, Karachi, 13th January 1947

To

The Secretary to the Government of Bombay,
Legal Department, BOMBAY.

Sir,

Under sub-rule (3) of rule 49 of the (old Bombay Law Officers' Rules, the expression 'day' was originally defined as 'any portion of a day between 6 a.m. and 6 p.m.', and under the proviso thereto no outstation fee was payable if the absence did not exceed four hours. Subsequently, by an Errata issued under Legal Department No. L.O.R. 2/30, dated the 15th October, 1930, for the figure and letters '6 a.m.' the figure and letters '8 p.m.' were substituted and under corrigendum No. 7, dated the 28th January, 1932, for the word 'four' the word 'six' was substituted. I am to request that if there be no objection, this Government may be informed of the reasons underlying these amendments.

Sd/-
Deputy Secretary to Government.

EVI.21/5.

R.J. No. 888/18-1-41.

Submitted.

2. The Dy. Secy. to Govt., Legal Department, Sind Government states that under sub-rule (3) of rule 49 of the old Bombay Law Officers' Rules the expression day was originally defined as "any portion of a day between 6 A.M. and 6 P.M. "and under the proviso thereto no outstation fee was payable if the absence did not exceed four hours. Subsequently, by an erratum issued under Legal Department No. L.O.R. 2/30, dated 15-10-30 for the figure and letters "6 A.M. the figure and letters "6 P.M." were substituted and under corrigendum No. 7, dated 25-1-32 for the word "four" the word "six" was substituted. He therefore requests that if there be no objection this Government may be informed of the reasons underlying the amendments.

3. To explain this it is necessary to give a short history re: these amendments. Formerly, when the Public Prosecutors conducted the cases outside their headquarters under old rules 48 and 49 the D. M. had the power to sanction enhanced fees up to Rs. 50. It was later realised that the power was abused. Therefore when the rates of daily fees were revised from Rs. 15 to 20 vide our G.R. No. 2303, dated 3-12-25, it was decided to take away altogether the power of the D. Ms. to sanction enhanced fees. But this gave rise to plethora of applications for enhanced fees and complaints from D.G. Po. that their claims were not satisfactorily and expeditiously settled. This was the origin of amendment of rule 49 of the L.O. Rs. The rule was amended to liternalise its terms and to minimise requests for enhanced fees. The entire

proceedings underlying this are in L.D. file No. 79 of 1927 is put up below:-

4. The rule was amended vide G.R. L.D. No. 2336, dated the 25-7-27. In accordance with these orders the difinition of "day" was framed as any portion of day from 6 p.m. to 6p.m. vide sub-para (3) of the G.R. as referred to. When the rules were reprinted it was discovered that a misprint had crept in. In rule 48 (3) instead of words "6 p.m." the words "6 A.M." were printed. This mistake was corrected by an erratum issued under this office No. L.O.R. 2/30, dated 15-10-30.

5. As regards raising of the period of absence from head quarters from four hours to six hours vide corrigendum No. 7 dated 25-1-32, it may be stated that experience showed that the working of the rule had become unduly liberal and extravagant and the modification of the same was called for to arrest the progress of expenditure under the head "fees in criminal cases" as drastic economies in public expenditure were called for in 1931. The amendment was therefore made by Govt. vide G.R. L.D. No. 8802 dated. 9-12-31.

6. Perhaps the Sind Government may be informed on lines of paras 4 and 5 above.

EVY. 21/5.

5

No. 1973
Legal Department,
Letter. Bombay Castle, 27th February 1947.

To

The Deputy Secretary to Government,
Legal Department, Government of Sind,
Sind Secretariat, Karachi.

Reference your letter No. S.I (B)I/46/II, dated the 13th January 1947.

2. Rule 49 of the old Law Officers Rules was amended vide Government Resolution, Legal Department, No. 2336, dated the 25th July 1927. In accordance with those orders the definition of "day" was framed as any portion of day from 6 p.m. to 6 p.m. vide sub-paragraph (3) of the Government Resolution Referred to above. When the rules were reprinted it was discovered that a mis-print had crept in. In rule 49(3) instead of words "6 p.m." the words "6 a.m." were printed. This mistake was corrected by an erratum issued under this office No. L.D.R. 2/30, dated the 15th October 1930.

3. As regards raising of the period of absence from head quarters from four hours to six hours vide corrigendum No. 7, dated the 25th January 1933, it is stated that experience showed that the working of the rule had become unduly liberal and extravagant and the modification of the same was called for to arrest the progress of expenditure under the head "fees in criminal cases" as drastic economies in public expenditure were called for in 1931. The amendment was therefore made by Government vide Government Resolution, Legal Department, No. 6802, dated 24th December 1931.

Sd/-
for Secretary to the Government
of Bombay, Legal Department.

EVY. 21/3.

No. 3304
Office of the
Government Pleader, High Court,
Bombay, 18th November 1946.

From

P.G. Patwardhan, Esqr., B.A., B.Sc., LL.M.,
Government Pleader, High Court, Bombay.

To

The Secretary to Government,
Legal Department, Bombay.

Sir,

2. May I invite your attention to Rule 15 of the Law Officers (Conditions of Service) Rules. Fees in Criminal Cases mentioned in that Rule are Rs. 10-3-0 if only one accused is involved and Rs. 13-8-0 in respect of each additional accused. These reduced fees were introduced by Resolution No. 1525 dated 15-3-1932 as a measure of retrenchment. Before the retrenchment the fees were Rs. 45/- and Rs. 15/- respectively. Similarly, the fees of the District Public Prosecutors were reduced to Rs. 18, from 20/-. This all round 10 per cent cut which wasintroduced in 1932 has been restored long ago in all other places, except in rule 15. I therefore pray that the cut in my fees be also restored.

3. Similarly my salary of Rs. 450/- should be restored to the former scale of Rs. 500/- which was the scale before the 10% cut was introduced as a general retrenchment.

4. Another thing I wish to point out isthat in some cases, I do not get instructions to appear in time. I should therefore be given a general authority to appear in criminal cases, even though I may not have received specific instructions to appear. The other day, their Lordships expressed surprise as the Government Pleader did not appear because he had not received instructions to appear, though the case was in their Lordships' opinion very important from the

Government point of view. This incident occurred in the time of my predecessor in office, Mr. Rao. Since this incident a practice has grown up for the Government Pleader to appear in anticipation of instructions. But I do not find any definite authority for this practice. I therefore suggest that I should be given a definite authoirty in this behalf.

5. The High Court has now made a rule that in cases where a party, is, under the rules, entitled to engage two Advocates, the party should engage two Advocates. And the rule is now extended to Second Appeals where the claim is above Rs. 2000/-. The High Court has also made it a rule not to adjourn the hearing of a case on the ground that the Advocate in that case is engaged in some other Court, in the High Court itself. But the new rule is that if the party has engaged two Advocates, and if both of them are engaged in other Courts, the case will be kept back till one of them is free to appear to the case in question. Before these new rules were made the practice was to keep back a case if the Advocate was engaged in some other Court. The other day S.A. No. 1042 of 1943 was before Mackling and Dixit, JJ. I had studied it and I held some conferences with the Advocate General as he was instructed to appear. We even took some adjournments to enable him and me to appear. But it ultimately turned out that as he was doing some urgent Government work in the other Court, he could not appear, nor could I appear on account of the same reason; and the learned Assistant Government Pleader appeared and worked out the case. In this case, I propose, subject to your approval, to ask the Registrar's Office to tax two sets of fees, as the High Court rules permit 2 sets of costs.

6. Hereafter, it may be necessary for me in some cases to ask the Assistant Government Pleader also to be ready with

cases along with me, in which the High Courts desired by its rules the engagement of two Advocates. In those cases, the Registrar's Office will be entitled to tax two sets of costs. Private parties are now practically compelled to engage two advocates in heavy cases to avoid the possibility of their cases being heard exparte, I therefore suggest that I may be permitted to ask the learned Assistant Government Pleader to be also ready along with me in such heavy cases, so that the cases will be kept back if both of us are engaged. In that event, two sets of costs ought to be taxed. As this difficulty had not arisen before, there was no occasion to seek your directions in this behalf. Please therefore authorize me to act as suggested above.

Your obedient servant,

Sd/-

Government Pleader, High Court.

L.R.10204/10/11.

Submitted.

The G.P., High Court, Bombay, invites attention to rule 15 of the L.O. (C. of S.) Rules which prescribes fees to the G.P., High Court at Rs. 40-8-0 if only one accused is involved and Rs. 13-8-0- in respect of each additional accused and states that these reduced fees were introduced by G.R. No. 1526, dated the 15th March 1932 as a measure of retrenchment. Before the retrenchment the fees were Rs. 45/- and Rs. 15/- respectively. He adds that this all round 10% cut which was introduced in 1932 has been restored long ago in all other places except in rule 15. He, therefore prays that the cut in his fees he also restored; similarly he requests that his salary may be restored to the former scale of Rs. 500/- which was the scale before the 10% cut was introduced as a general retrenchment.

(Though 'A' branch so far as paras. 4, 5 and 6 are concerned).

The salaries of the D.G. Ps & P.Ps. in Bombay Province have been raised by 10% temporarily. Similarly the fees of P.Ps. have been raised from Rs. 18/- to Rs. 20/- per day.

On the above analogy it seems reasonable that the fees of the G.P. High Court, Bombay prescribed in rule 15 may be raised to Rs. 45 and 15 respectively. Similiarly the salary of the G.P. may also be raised by 10% after u.o. to F.D.

Through A.

EVY. 21/5.

Submitted.

Informal inquiry was made with G.P.H.C. in connection with para 4 of his letter. He states that there are many proceedings like, Jail Appeals, Transfer Appeals, Criminal References, Previsions by accused etc. in which he cannot appear unless directed to do so by Government or ~~es~~ D.J. or S.J. D.M. or P.P. (cf. clauses (e) and (h) of Rule 31). in some cases he finds that he has no instructions to appear but finding that the case is such that Government is interested in it, he ~~posts~~ puts in appearance in anticipation of sanction and in order to regularise this practice he wants a general authority from this Department to appear in Criminal Cases in anticipation of Sanction. G.P. referred to Government letter No. 181 dated 13-1-1927 in which he has been authorised to oppose bail applications. He wants authorisation on those lines.

x.

A general authority may now be given as was done in 1927. The G.P. H.C's proposal as regards two sets of costs may also be approved after U.R. to F.D.

U.R. to F.D. No. 8618 dated 30-11-46.

The L.D. may be requested us to forward that department proceedings underlying Rule 15 of the Tax officers (Conditions of Service) Rules to P.D. in the first instance.

U.O. to L.D. dated 4.12.46.

L.D.

File L.O.R. accts/32 containing the proceedings (pp 107.114) may be sent us to the P.D.

Sd/- A.A.A.

U.O. to P.D. No. 6995 dated 10.12.46.

S.V.K. 22/5.

Finance Department. "F".

Attention is invited to F.D. note dated 2nd December 1946, recorded on L.D. pp. containing a proposal for increase in the "Salary" of the P.P. Bombay. As stated in that note the reasons for the temporary increase in 'Salary' and fees of the D.P.Ps. were:-

(i) that Govt. work was so heavy that they could not attend to their private practice.

and (ii) they had to devote all their time exclusively to Govt. work.

No other law officers have been given any increase in their retainers. The position of the C.R.H.C. Bombay cannot be compared to that of the D.P.Ps. Govt. has given him an assistant or assistants and evidently he has not to depend entirely on his retainer and income from Govt., in addition to the fee prescribed in the rules. The C.R.H.C. is occasionally given spl. fees and substantial lump sum remuneration typified by the Govt. orders quoted below:-

Orders	Amount.
G.R.L.D. No. 7703 dated 18-10-45	Rs. 900
G.R.L.D. No. 9334 dated 12-12-45.	Rs. 202-8-0
G.R.L.D. No. 9332 dated 12-12-45.	Rs. 81-0-0

In the circumstances no case appears to have been made out for the increase in the sanctioned retainer and fees and the L.D. may be advised accordingly.

V.M.J30/12.

U. o.r. to L.D. dated 30-12-46.

KVI. 22/5.

F.D.

The F.D. has turned down our proposal re: restoration of the cut in pay and fees of the G.P., H.C. vide portion marked 'A' and 'B' of that Department note overleaf. The G.P., H.C. may therefore be informed that his request cannot be granted.

(through A as regards answer to paras. 4 to 6 of his letter).

As regards para. 4: A general authority may be given to G.P. as per orders at p. 10 ante.

As regards paras. 5 and 6 : F.D. note is silent on this point. Before giving a reply to G.P. the case may again be referred to F.D. inviting its attention to S.A.S's note dated 29-11-1946 on p. 10 ante and on F.D's concurrence G.P. may be allowed to engage two Advocates in cases where High Court Rules so provide.

U.R. to F.D. No. 1518, dated 14-2-47.

EVI. 22/5.

Finance Department 'F'

Attention is invited to the then H.L.A. Mr. Black Rau's note dated 7.1.37 underlying the H.L.A's letter and circular. From this note it is seen that the general authority was given in 1937 subject to the procedure prescribed at 'A' in the letter. It is not clear whether this procedure has so far been followed and found unworkable. The L.D. may be requested u.o. to have the point clarified.

2. It is not clear whether the High Court Rules specifically require Govt. also to engage two advocates as the G.P., H.C. says that 'private parties are now practically compelled to engage two advocates in heavy cases to avoid the possibility of their cases being heard ex parte. In the case of private parties, frequent adjournments may be occasioned by the counsels engaged being much in demand. But there is no analogy between private counsel of this type and Govt's law officers. There would appear no objection to both the G.P. and Asstt. G.P. working on heavy cases if there is possibility of either of them being engaged elsewhere in Government case. But there is no reason why this should not be done with the knowledge and sanction of the H.L.A. Subject to this condition the proposal of the L.D. may be agreed to.

V.M.J. 18/2.

H. H. to L.D. dated 18.2.47. (with vol).

EVT. 22/2.

Legal Department.

Re-submitted with reference to F.D. note dated 17-12-37 at p. 10 ante.

As regards para 1 of F.D.'s note: A closer reading B.L.A's letter No. 181 dated 15-1-37 and the circular No. 191 dated 15-1-1937 would show that the authority given in that letter was as regards bail applications only. The authority proposed to be given at present is in respect of all criminal proceedings. The reasons for asking such general authority are indicated in para 6 of G. P's letter and may not be repeated here. It may be mentioned further that this point was not referred to F.D. as F.D. is not concerned with this.

As regards para 2 of F.D's note:- In para 5 G.P. has asked for permission to get 3 sets of fees taxed in the specific case cited therein. Considering that both the G.P. as well as the A.G.P. had to put in work in connection with the case mentioned the request of G.P. appears reasonable and was hence approved.

In para 6, G.P. has asked for a general permission to engage the A.G.P. along with him in cases where parties are entitled to engage two advocates. The reason for this is this. In cases where the party is entitled to engage two Advocates but engages only one and that Advocate is not able to appear, the High Court is reluctant grant adjournment. But if two Advocates are engaged and both of them are busy at the time of hearing then adjournment will be granted till one of them is free. Civil appeals do not come up for hearing as soon as they are admitted. They are heard after a year or two. The G.P. cannot anticipate whether he will before or not at the time of hearing. It is hence desirable to allow him to engage A.G.P. in

order to avoid separate decisions. This may be shown to F.D. before issue of final orders.

What about 'A' of F.D. note on p-15?

Resubmitted with reference to A.A. L.R.'s query.

The Suggestion of F.D. that the G. P., H.C. should engage two advocates with previous sanction of R.L.A. in each case would not be feasible in practice. First when Govt. gives him a general power to engage two advocate in cases in which two advocates are permissible no question of asking forsanction in each cases will arise. Secondly no useful purpose will be served by asking the G.P. to refer every case to R.L.A. for sanction. It would ential only unnecessary correspondence. Further, it is desirable to give some discretion to an officer like, the Govt. Pleader, High Court. For these reason it would not be possible to accept F.D's suggestion.

S.A.S. I entirely agree. The G.P. Mad's proposal in para 6 of his letter is that the Asst. Govt. Pleader will appear with the in those case in which the High Courts Rules require the engagement of two Advocates and in which two sets of costs will be taxed. There can be no objection to filing here a general authority in that behalf. F.D's proposal at A on p-15 will have no practical value and will mean sheer waste of time.

Sd/- 8/3/47.

AACR I agree with S.A.S the 10-3-

U.R. to F.D. No. 2907 dated 10-3-47.

SVT. 22/3.

Finance Department. 'F'

Submitted with reference to office note dated 18th February 1947. In view of the position explained by the L.D., that dept's proposal may be agreed to.

V.M.J. 11/3.

U.R. to L.D. dated 12-8-47.

Legal Deptt.

submitted with ref. to notes at pp 17-18 ante.

As F.D. agrees, draft of the proposed reply to G.P.H.C. is put up on the next page for approval.

Thro'o (as regards para 3 of the draft).

EVY. 22/8.

No. 2927

Legal Department,
Bombay Castle, 26th March 1947.

To

The Government Pleader,
High Court, Bombay.

Sir,

With reference to your letter No. 3504 dated the 15th November 1946, I am directed to inform you as follows:-

1. You should appear in any criminal case coming before the High Court in anticipation of sanction, if you consider that the case involves points important from the point of view of Government and it is necessary that Government should be represented before the court.

2. As regards S.A. No. 1042 of 1943, you may ask the Registrar's Office to tax two sets of fees and in future in all cases, in which engagement of two advocates is allowed under the High Court Rules, you may instruct the Assistant Government Pleader to be ready along with you and get two sets of costs taxed.

3. As regards increase in your retainer and fees, Government regrets it is unable to see any reason to grant the request.

Your obedient servant,

Sd/-

for Secretary to Government.

EVI. 22/5.

GOVERNMENT OF ASSAM.

Judl. & Genl. Department .. Judicial Branch.

No. JJD. 77/46/31.

Shillong, the 7th April, 1947.

From

H.C. Stork, Esq., C.I.E., I.C.S.,
Secretary to the Government of Assam.

To

The Secretary to the Government of Madras
Bombay
The United Provinces
Bihar
The Central Provinces
Orissa
The North West Frontier Province.

Subject:- Fees of the Advocate General in the Judicial Department.

Sir,

I am directed to request you to be so good as to let this Government know whether there is any present intention to alter the retaining fee of the Advocate General of your Province, what fees he is at present entitled to draw for appearance in the various courts, and whether there is any present intention to alter these fees.

I have the honour to be,
Sir,
Your most obedient servant,
Sd/-
Secretary to the Government of Assam,
Judicial Department.

HVY. 22/5.

L.D.

The subject matter of this letter pretains to L.D. If may be passed on u.o. to that Department for disposal.

Sd/-
15-4-47.

A S.

U. O R. to L.D. dated 15-4-47.

EVI. 22/5.

No. 4920

Legal Department.

Bombay Castle, 14th May, 1947.

To

The Secretary to the Government of Assam,
Judicial Department,
Shillong.

Subject:- Fees of the Advocate General.

Sir,

With reference to your letter No. JJD. 77/46/31, dated the 7th April 1947, on the above subject, I am directed to forward herewith copy of rule 11 of the Law Officers (C of S) Rules which gives the information required by you. I am to add that at present there is no intention to alter the retainer or any fees payable to the Advocate General.

Your obedient Servant,

Sd/-

for Secretary to Government.

EVY. 22/5.

Legal D.partment.

Submitted.

2. This relates to the amendment of rules 3(d), 47(6) and 188 of Law officers (conditions of S.rvice) Rules, 1939, consequent upon the following notifications and references which were kept in "cold storage" till the end of war.

(1) U.R. to F.D. No. 831, dated 30-3-1945 (vide D.S.'s note dated 18-1-1945)

(2) Office note dated 16-6-1942 and D.J.'s order thereon.

The following notifications involve an amendment of rule 188 of Law officers Rules:-

(i) L.D. notification No.3179, dated 13.4.1942.

(ii) L.D. Notifications No.8162, dated 5.11.1943.

(iii) L.D. Notifications No.7941, dated 14.11.1944.

(iv) L.D. Notifications No.5339, dated 7.8.1945.

(v) L.D. Notifications No.3560, dated 13.5.1946.

3. Perhaps the amendment of Law Officers ((conditions Service) Rules 1939 may be taken in hand. N Necessary drafts amending rules 3(d) 47(6) and 188 are put up for approval.

Id. 2.7.
11

Supdt. Ed. J.D.21.8.

In exercise of the powers conferred by clause (b) of sub-section (2) of section 241 of the Government of India Act, 1935, the Governor of Bombay is pleased to amend the Bombay Law Officers (Conditions of Service) Rules, 1939, as follows, namely:-

To clause (d) of rule 3 of the said rules, after the words "The public prosecutor for Bombay" the words "and his Assistant, Public Prosecutor for Bombay" shall be added.

EVT. 22/5.

The Governor of Bombay is pleased to further amend the Rules for the Conduct of the Legal Affairs of Government published in Government Notification, Legal Department, No. 8493, dated the 23rd August 1939 as follows:-

1. In sub-rule (3) of rule 47 of the said rules, the following words shall be inserted at the end:-

"The report on the work of the Honorary Assistants should also be submitted to Government by the Collector [and District Magistrate] through the District and Sessions Judge concerned."

2. In sub-rules (3) and (4) of rule 188 for the words "The Eastern Bengal, East Indian, Great Indian Peninsula or North-Western Railway or the State Railways Coal Department," the following shall be substituted:

(i) The Bengal and Assam Railway,

(ii) The Bombay, Baroda and Central India Railway,

(iii) The East Indian Railway,

(iv) The Great Indian Peninsula Railway,

(v) The North Western Railway,

(vi) The Oudh and Tirhut Railway,

(vii) The Bengal Nagpur Railway,

(viii) The South Indian Railway,

(ix) The Madras and Southern Mahratta Railway, or

(x) The State Railways Coal Department."

Submitted.

2 By Government of India Legislative Department, Notification No. F. 223/42-I.C & G, dated the 17th February 1942 as amended from time to time issued in pursuance of rule 2, 8 and 8 B of Order XXVII of the Code of Civil Procedure the Central Government has authorised the Government Pleader, High Court Bombay, Mr. S. Narayanaiah, B.A.,LL.B., and all District Government Pleaders to act in any court in the Province of Bombay, for which they have been appointed, for the Crown in respect of any judicial proceeding by or against the Secretary of State or the Central Government other than those relating to certain Railways specified in the saide notification.

Please see in this connection office note dated the 16th June 1942 and the then D.S's Orders thereon, and U.R. ti F.D. No. 691, dated the 3rd January 1945. It is now proposed to take up the amendments.

3. Two revised draft notifications are put up herewith

(i) Please see G.E. I.D. No. 10827, dated the 16th December 1941, regarding the report on the work of the Honorary Assistants required to the submitted by the Collectors. It is necessary that some date be fixed for forwarding the report. Subject to approval thereto may be 1st January of each year as in the case of reports by the D.G.P.

(ii) Since Government of India, Home Department's Notifications, No. 204/37,(Judl.) dated the 1st April 1938 and No. 193/38 (Judl.), dated the 10th January 1939 have been superseded by Government of India, Legislative Department No. F. 223/42-I.C & G. (Judl.), dated the 17th February 1942, sub-rules (1) & (2) of rule 188 of the

Law Officers Rules have become redundant. A fresh rule 188 therefore is put up for approval, transposing the existing sub-rule (3) as rule (i) thereof and sub-rule (4) as new sub-rule (3). In the existing sub-rule (4) reference to reference to certain railways mentioned therein is not to be found either in Government of India, Home Department, Notification No. 204/34 (Judl.), dated the 11th April 1940, or in the amending Notifications No. 105/40 (Judl.), dated the the 6th June 1940 and No. 105/40 (Judl.), dated the 18th September 1940. It is for consideration why it should not be omitted from the existing sub-rule (4). It is tentativwly omitted from the revised draft put up.

(iii) Rule 3 of the Law Officers (Conditions of Service) Rules, 1939, does not specify the Assistant Public Prosecutor for Bombay and consequently it cannot be argued that appearances in cases envisaged in rule 13A can be construed to be appearances by the A.P.P. In these circumstances it proposed to amend the said rule. This involves consequential amendment of rule 3(d) of the Law Officers Rules. The draft put up provides accordingly.

Bombay Law Officers (Conditions of Service)

This file relates to certain amendments of the Law Officers' Rules which were put into cold storage during the currency of the last war. The rules which require to be amended are rule 3 of the Bombay Law Officers (C of S) rules and rules 3, 47 and 188 of the Law Officers Rules.

2. As regards amendment or rule 3, attention is invited to the notes underlying L.D.U.R. to F.D. No. 891, dated 30th January 1945. The post of A.P.P. was created in January 1943, long after the Law Officers Rules were made including rule 13A, ~~which~~ ~~the~~ ~~Law~~ ~~Officers~~. The question therefore arose whether rule 13A of the Law Officers (Conditions

of Service) Rules would apply to A.P.P. for Bombay. It was held that the rule would apply but it was necessary to amend rule 3(d) so as to include these in the A.P.P. for Bombay. Draft Notification No. 1 put up herewith provides accordingly.

Similar amendment would be necessary to rule 2(v) of the Law Officers Rules. Amendment No. 1 in the Draft Notification No. 1 provides for this.

3. Amendment of rule 47 of Law Officers Rules is necessitated in view of G.R., L.D., No. 10827 dated the 16th December 1941 which inter alia provides that annual reports on the work of Honorary Assistants should be submitted to Government by the Collector and D.M. through the District and Sessions Judge.

Amendment No. 2 in draft notification 1 which seeks to insert a new sub-rule (6A) in rule 47 provides for the purpose.

4. Existing rule 186 reproduces certain Government of India notifications.

(a) Sub-rule (1) repeats the provisions of Government of India notification in the Home Department No. G 204/37 Judl., dated the 1st April 1938.

(b) Sub-rule (2) repeats the provisions of Government of India Notification No. d 198/38-Judl., dated the 10th January 1939.

(c) Sub-rule (3) repeats the provisions of Government of India Notification No. c 204/37-Judl., dated the 11th April 1940; and

(d) Sub-rule (4) repeats the provisions of Government of India Notification No. 107/40-Judl. dated the 25th March 1941.

These notificationshave been issued under Order XXVII

of the First Schedule to the Code of Civil Procedure.

By Government of India notification in the Legislative Department No. F 223/42-C and G (Judl.) dated the 17th February 1942, the following notifications have been superseded, namely:-

(1) Government India, H.D. Notfn., No. 204/37-Judicial, dated 1-4-38.

(2) -- do -- No. 192/38-Judl., dated 10-1-39.

(3) -- do -- No. 204/37- " " 28-3-40.

(4) -- do -- No. 204/37-1 " " 11-4-40-All.

(5) -- do -- No. 140/42-I " " 20-11-40.

And by Government of India, Legislative Department Notification No. F. 223/42-I-C&G, dated the 17th February 1942, the following notification was superseded, namely:-

Government of India in the Home Department-

(1) No. 107/40-Judl., dated 26-3-41;

(2) No. 107/40-I-Judl., dated 26-3-41.

From this it may be seen that excepting the provisions of sub-rule (3) of rule 188, all other sub-rules are no longer in force. It is therefore necessary to substitute the provisions, so far as they reach to Bombay of the aforesaid two Government of India notifications of 17th February 1942, as subsequently amended, for sub-rules (1), (2) and (4) of the existing rule 188. Draft amendment 3 of draft notification I provides for this purpose.

I have corrected the draft notifications. Both the draft notifications at pp. 11-13 may be approved.

Secy. Id- 7-11-46.

KVY. 22/5.

Legal Department.

Bombay Castle, September 1946.

No No. :- The Governor of Bombay is pleased to amend the Rules for the Conduct of the Legal Affairs of Government published in Government Notification, Legal Department, No. 8493, dated the 23rd August 1939, as follows, namely:-

In the said ~~Rules~~ Rules--

(1) To clause (d) of rule 3 the words "and his Assistant" shall be added;

(2) After sub-rule (6) of rule 47 the following shall be inserted, namely:-

"6A. Every Collector shall also submit though the District and Session Judge concerned to the Legal Remembrancer on the 1st January of each year, a report on the work of the Honorary Assistants to District Government Pleader in his district".

(3) For rule 188 the following shall be substitute namely:-

"188. (1) By Government of India, Legislative Department, Notification No. F. 223/42-I-C & G (Judl.), dated the 17th February 1942 as amended by Government of India, Legislative Department, Notifications No. F. 238/43-I-C & G (Judl.), dated the 27th August 1943, No. 243/44-I-C & G (Jud dated the 28th October 1944, No. 234/45-I-C & G (Judl.), dated the 7th July 1945 and No. 233/46-I-C & G (Judl.), dated 12th April 1946 issued in pursuance of rules 2, 8 and 8-B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), the Central Government has authorised the Government Pleader, High Court, Bombay, the solicitor to the Central Government at Bombay, Mr. S. Narayanaiah and all District Government Pleaders to act in any Court in the Province of Bombay for which they have bee appointed for the Crown in respect of any judicial proceeding by or against the Secretary of State or the Central

Government other than those relating to —

(i) The Bengal and Assam Railway.

(ii) The Bombay, Baroda and Central Indian Railway.

(iii) The East Indian Railway.

(vi) The Great Indian Peninsula Railway.

(v) The North Western Railway.

(vi) The Oudh and Tirhut Railway.

(vii) The Bengal Nagpur Railway.

(viii) The South Indian Railway.

(ix) The Madras and Southern Maharatta Railway.

(x) The State Railways Coal Department.

2. By Government of India, Home Department, Notification No. 204/37- (Judl.), dated the 11th April 1940, as amended by Government of India, Home Department, Notifications No. 105/40 (Judl.) dated the 6th June 1940, and No. 105/40 (Judl.), dated the 18th September 1940 issued in exercise of the powers conferred by rule 1 read with clause (a) of rule 3-B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), the Central Government has authorised the Officers specified in the said notification to sign and verify plaints and written statements in any suit by or against the Secretary of State or the Central Government.

II.

No. :- In exercise of the powers conferred by clause (b) of sub-section (2) of section 241 of the Government of India Act, 1935, the Governor of Bombay is pleased to amend the Bombay Law Officers (Conditions of Service) Rules 1939, as follows, namely:-

To clause (d) of rule 3 of the said rules the words "and his Assistant" shall be added.

By order of the Governor of Bombay,

P.N.Moos,
Secretary to Government.

EVY. 22/5.

Resubmitted with reference to H.M'S. minute dated the 6th November 1946 on page 10 ante.

2. As there isno red ribbon available in the Department, the existing rules and the proposed amendments are typed in black ink only in a tabular form. In the case of notification No. i.

(a) the amendment proposed in para (1) isunderlined;

(b) the amendment proposed in para (2) isthe insertion of the whole new sub-rule (8A and

(c) the amendment proposedin para (3) isthe substitution of a fresh rule 198 for the existing rule 199.

In notification No. II the amendment proposed is underlined.

Id. 12/11/46.

S.S. Id. 18.11.46.

A.A.S. Id. 21/11

ALR Id. 21.11.

HIA. Secy. Id. 23.11.46.

HM (1) Id. 26.11.

EV. 22/6.

A

DRFT NOTIFICATION NO. 1.

Rules for the Conduct of the Legal Affairs of Government.

Existing Rules.	Proposed amendments.	Remarks.
1. 2. Law officers.- The Law Officers of Government hereinafter referred to as the Law Officers are the following:-		
i)		
ii)		
iii)		
iv)		
v) The Public Prosecutor for Bombay.	(v) The Public Prosecutor for Bombay and his Assistant.	
2. There is no existing Rule (6A) after rule 47(6).	New rule 47 (6A) Every District Magistrate shall also submit to the Legal Remembrancer on the 1st January of each year, a report on the work of the Honorary Assistant under the District Government Pleader in his district. Such report shall be submitted through the District and Sessions Judge of the District.	

Existing Rules.	Proposed amendments.	Remarks.
(3) 188. (1) By Government of India notification, Home Department, No. 204/37-Judl., dated the 1st April 1938, the Government Pleader, High Court at Bombay, and the District Government Pleaders have been appointed as Crown Pleaders for the purpose of Order XVII of the Civil Procedure Code in relation to any suit by or against the Secretary of State, or the Central Government, or against a Public officer in the service of that Government in any Court in the Province of Bombay other than a suit relating to the Eastern Bengal, East Indian, Great Indian Peninsula or North Western Railway or the State Railways Coal Department.	188. (1) By Government of India, Home Department, Notification No. 204 37-(Judl.), dated the 11th April 1940, as amended by Government of India, Home Department, Notifications No. 106/40-(Judl.), dated the 6th June 1940, and No. 106/40(Judl.), dated the 18th September 1940 issued in exercise of the powers conferred by rule 1, read with clause (a) of rule 3-B, of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, the Central Government has authorised the officers specifiedxin specified in the said notifications to sign and verify plaints and written statements in any suit by or against the Secretary of State or the Central Government other than a suit relating to the Eastern Bengal, East Indian, Great Indian Peninsula or North Western Railway or the State Railways coal	
(2) By Government of India notification No. 192/38-Judicial, dated the 10th January		

Existing Rules.	Proposed amendments.	Remarks.
1939, the Solicit r to the Central Government at Bombay has been appointed to be Crown Pleader for the purposes of Order XXVII of the Civil Procedure Code in relation to suits of the abovementioned description file on the original side of the High Court at Bombay and in the Small Cause Court at Bombay. (3) By Government of India, Home Department, Notification No. 204/37-Judicial, dated the 11th April 1940, as amended by Government of India, Home Department, Notification No. 105/40-Judicial, dated the 18th September 1940 issued in exercise of the powers conferred by rule 1, read with clause (a) of rule 8-B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (Ve of 1908), the Central Government has authorised	Department. (2) By Government of India, Legislative Department, Notification, No. F. 223/42-C & G (Judl.), dated the 17th February 1942, as subsequently amended, issued in pursuance of clause (a) of rule 8-B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, the Central Government has appointed the officers specified in the second column of the Schedule hereto as Crown Pleaders for the purposes of the said Order in relation to any suit by or against the Secretary of State or the Central Government not being a suit relating to — (i) The Bengal and Assam Railway, (ii) The Bombay, Baroda and Central India Railway,	

Existing Rules.	Proposed amendments.	Remarks.
the officers specified in the said notification to sign and verify plaints or written statements in any suit by or against the Secretary of State or the Central Government other than a suit relating to the Eastern Bengal, East Indian Great Indian Peninsula or North-Western Railway, or the State Railways, Coal Department. (4) By Government of India, Home Department, Notification No. 107/40-Judicial, dated the 26th March 1941, issued in pursuance of rules 2, 2 and 2-B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), the Central Government has authorised the Government Pleader, High Court at Bombay, the District Government Pleaders, the Solicitor to the Bombay Government at Bombay, and the Law in Central Government at Bombay and Mr. S.	(iii) The East Indian Railway, (iv) The Great Indian Peninsula Railway, (v) The North Western Railway, (vi) The Oudh and Tirhut Railway, (vii) The Bengal Nagpur Railway, (viii) The South Indian Railway, (ix) The Madras and Southern Maharatta Railway or (x) The State Railways Coal Department, or against a public officer in the service of the Central Government, in any court specified in the first column of the said Schedule.	

Existing Rules	Proposed amendments.	Remarks.
Narayaniah, Advocate, Bombay, to act in any Court in the Provinces of Bombay, for the Crown in respect of all judicial proceedings by or against the Secretary of State or the Central Government other than those relating to the Eastern Bengal, East Indian, Great Indian Peninsula or North-Western Railway or the State Railways Legal Department, and for a public officer in the service of the Central Government in respect of all suits against such public officer, the defence of which is undertaken by the Central Government.	SCHEDULE. Courts. 1. / Officers. 2. The High Court of Bombay. / The Government Pleader, Bombay, and (for original side only) the Solicitor to the Central Government at Bombay. The Court of Small Causes, Bombay. / The Solicitor to the Central Government at Bombay and Mr. S. Narayaniah, B.A., LL.B. Other Courts. / District Government Pleaders. (3) By Government of India, Legislative Department, Notification No. F.220 42-I C & G. (Jud.), dated the 17th February 1942, as subsequently amended, the Central Government has authorised the officers appointed as Crown Pleaders by the Government of India Notification referred to in sub-rule (2), to act in any court for which they have been so appointed. —	

EVI. 23/6.

Existing Rules.	Proposed amendments.	Rules Records Remarks.
	(a) for the Crown in respect of any judicial proceeding by or against the Secretary of State or the Central Government, not relating to --	
	(i) the Bengal and Assam Railway,	
	(ii) The Bombay, Baroda and Central India Railway,	
	(iii) The East Indian Railway,	
	(iv) The Great Indian Peninsula Railway,	
	(v) The North Western Railway,	
	(vi) The Cuch and Tirhut Railway,	
	(vii) The Bengal Nagpur Railway,	
	(viii) The South Indian Railway,	
	(ix) The Madras and Southern Mahratta Railway, or	
	(x) The State Railways Coal Department,	
	(b) where the Central Government undertakes the defence of a suit against a public officer in the service of the Central Government, for such public officer.	

23/5.

DRAFT NOTIFICATION NO. II.

Law Officers (Conditions of Service) Rules.

Existing Rules.	Proposed amendments.	Remarks.
3. Law Officers to whom the rules apply.-		
These rules apply to the following Law Officers of Government :-		
(a)		
(b)		
(c)		
(d) The Public Prosecutor for Bombay;	(d) The Public Prosecutor for Bombay and His Assistant	

MVY. 23/6.

69

Submitted.

2. These papers relate to the amendments to the Rules for the Conduct of the Legal Affairs of Govt. and the Bombay Law Officers (Conditions of Service) Rules, 1939. The amendments approved by Government will be found at pages 11-13 ante.

3. The amendments have been checked and put in proper form for publication in the Bombay Government Gazette. The two notifications at pages 33-36 post may be sent to the Press for publication in Part IV-A of the Bombay Government Gazette.

4. Detailed instructions regarding printing and supply of correction slips will be given to the Press as soon as the notifications appear in the Gazette, and copies are supplied by the Press.

5. Draft memorandum to the Press is put up for approval and signature.

14. 2.12.46.

I think we sent an advance copy to the Accountant General. Please verify and put up the draft.

sdp 2/12.

Resubmitted with an advance copy for the A.G., Bombay.

This file relates to certain amendments to the Law Officers (Conditions of Service) Rules and the Rules for the Conduct of Legal Affairs of Govt. which were put into cold-storage during the last war.

2. The amendments have been approved by H.M. (1) (vide p. 15 ante).

3. Secretary will kindly sign the notifs at pa. 36 post at x shown in blue chalk.

The notifs will then be sent to the Press for

publication.

SDP. 6/12.

Secy. (has seen).

EVY. 22/5.

LEGAL DEPARTMENT.
Bombay Castle, 14th December 1940.

Rule for the Conduct of the Legal Affairs of Government.

No. 9083 :- The Governor of Bombay is pleased to amend the Rules for the Conduct of the Legal Affairs of Government published in Government Notifications, Legal Department, No. 8433, dated the 23rd August 1929 as follows, namely:-

1. To clause (v) of rule 3 of the said rules the words "and his Assistant" shall be added.

2. After sub-rule (6) of rule 47 of the said rules the following shall be inserted, namely:-

"(6A) Every District Magistrate shall also submit to the Legal Remembrancer on the 1st January of each year, a report on the work of the Honorary Assistant under the District Government Pleader in his district. Such report shall be submitted through the District and Sessions Judge of the District.

3. For rule 138 of the said rules the following shall be substituted, namely:-

"138. (1) By Government of India, Home Department, notification No. 204/37-(Jail.), dated the 11th April 1940, as amended by Government of India, Home Department, Notifications, No. 105/40-(Jail.), dated the 6th June 1940, and No. 105/40-(Jail.), dated the 10th September 1940, issued in exercise of the powers conferred by rule 1, read with clause (a) of rule 2 of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, the Central Government has authorised the officers specified in the said no-

cations sign and verify plaints and written statements in any suit by or against the Secretary of State or the Central Government other than a suit relating to the Eastern Bengal, East Indian, Great Indian Peninsula or North Western Railway or the State Railways Coad Department.

2. By Government of India, Legislative Department, Notification, No. F. 223/42-C & G.-(Judl.), dated the 17th February 1942, as subsequently amended, issued in pursuance of clause (a) of rule 8 -B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, the Central Government has appointed the officers specified in the second column of the Schedule hereto as Crown pleaders for the purposes of the said Order in relation to any suit by or against the Secretary of State or the Central Government not being a suit relating to —

(i) the Bengal and Assam Railway,

(ii) The Bombay, Baroda and Central India Railway,

(iii) The East Indian Railway,

(iv) The Great Indian Peninsula Railway,

(v) The North Western Railway,

(vi) The Oudh and Tirhut Railway,

(vii) The Bengal Nagpur Railway,

(viii) The South Indian Railway,

(ix) The Madras and Southern Mahratta Railway, or

(x) the State Railways Coal Department, or against a public officer in the service of the Central Government, in any court specified in the first column of the said Schedule.

SCHEDULE.

Courts. (1)	Officers. (2)
The High Court of Bombay.	The Government Pleader, Bombay and (for original side only) the Solicitor to the Central Government at Bombay.
The Court of Small Causes, Bombay.	The Solicitor to the Central Government at Bombay and Mr. S. Narayaniah, B.A.,LL.B.
Other Courts.	District Government Pleaders.

(3) By Government of India, Legislative Department, Notification No. F. 323/42-I.D. & G. (Judl.), dated the 17th February 1942, as subsequently amended, the Central Government has authorised the officers appointed as Crown Pleaders by the Government of Indian Notification referred to in sub-rule (2), to act in any court for which they have been so appointed --

(a) for the crown in respect of any judicial proceeding by or against the Secretary of State or the Central Government, not relating to --

(i) The Bengal and Assam Railway.

(ii) The Bombay, Baroda and Central India Railway.

(iii) The East Indian Railway.

(iv) The Great Indian Peninsula Railway.

(v) The North Western Railway.

(vi) The Oudh and Tirhut Railway.

(vii) The Bengal Nagpur Railway.

(viii) The South Indian Railway.

(ix) The Madras and Southern Mahratta Railway or

(x) The State Railways Coal Department;

(b) Where the Central Government undertakes the defence of a suit against a public officer in the service of the Central Government, for such public officer.

II

No. 9084:- In exercise of the Powers conferred by clause (b) of sub-section (2) of section 241 of the Government of India Act, 1935, the Governor of Bombay in pleased to amend the Bombay Law Officers (Conditions of Service) Rules, 1939, as follows, namely:- Government of Indina Act, 1935.

To clause (d) of rule 3 of the said rules the words "and His Assistant" shall be added.

By order of the Governor of Bombay,

Sd/- D.V.VYAS,
Secretary to Government.

No. 9085-
Legal Department,
Bombay Castle, 14th December 1946.

Fowarded to Manager, Government Central Press, Bombay, for publication in Part IV-A of the Bombay Government Gazette, with a request that 25 Gazette copies of both the notifications may be supplied to this Department as soon as possible

2. It is also requested that the type should be kept standing until further orders from this Department, regarding the printing of the Correction slips.

By order of the Governor of Bombay,
S.D.P. 11/12
for Secretary to Government.

Advance copy fowarded to the Accountant General, Bombay, with reference to paragraph 2 of his letter No. D.A. III 27. Presy/1895 dated the 3rd January 1942.

SDP - 11/12
for Secretary to Government.

KVY. 29/5.

No. 424

Letters.

Legal Department,
Bombay Castle, 14th January 1947.

To

The Manager,
Government Central Press, Bombay.

Subject :- Printing of correction slips to Law Officers (Conditions of Service) Rules and Rules for the Conduct of the Legal Affairs of Government.

With reference to paragraph 2 of this Department endorsement No. 3085, dated the 14th December 1946, on the above subject, I am directed to forward herewith a copy of the requsite correction slips to the Law Officers (Conditions of Service) Rules and the Rules for the Conduct of the Legal Affairs of Government and to request that the said correction slips should be printed and supplied direct to the Departments and Officers to whom copies of the said Rules are supplied.

2. The necessary requisition giving details required by Government Resolution, General Department, No. 6970, dated the 10th August 1929 is appended.

Sd/- B.D.P. 13/1/47.

Assistant Secretary to Government.
Legal Department.

EVI. 22/5.

Eighteenth list of corrections to the Law Officers (Conditions of Service) Rules and the Rules for the Conduct of the Legal Affairs of Government.

No. 34.

Page 2, Rule 3 -

To clause (d) of rule 3 of the said rules, the words "and his Assistant" shall be added.

(G.N. L.D. No. 2084, dated 14th December 1946).

No. 35.

Page 12, Rule 3 -

To clause (v) of rule 3 of the said rules, the words "and his Assistant" shall be added.

(G.N. L.D. No. 2083, dated 14th December 1946).

No. 36.

Page 28, Rule 47 -

After sub-rule (6) of rule 47 of the said rules, the following new sub-rule shall be inserted, namely:-

"(6A) Every District Magistrate shall also submit to the Legal Remembrancer on the 1st January of each year, a report on the work of the Honorary Assistant under the District Government Pleader in his district. Such report shall be submitted through the District and Sessions Judge of the District".

(G.N. L.D. No. 2083, dated 14th December 1946).

No. 37.

Page 77, Rule 188 -

For rule 188 of the said rules the following shall be substituted, submitted, namely:-

"§ 188. (1) By Government of India, Home Department Notification, No. 304/37-(Judl.), dated the

11th April 1940, as amended by Government of India, Home Department, Notifications, No. 105/40-(Judl.), dated the 6th June 1940, and No. 105/40-(Judl.), dated the 18th September 1940, issued in exercise of the powers conferred by rule 1, read with clause (a) of rule 8-B, of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, the Central Government has authorised the officers specified in the said notifications to sign and verify plaints and written statements in any suit by or against the Secretary of State or the Central Government otherwise than a suit relating to the Eastern Bengal, East Indian, Great Indian Peninsula or North Western Railway or the State Railways Coal Department.

(2) By Government of India, Legislative Department Notification, No. F. 223/42-C & G.-(Judl.), dated the 17th February 1942, as subsequently amended, issued in pursuance of clause (a) of rule 8-B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, the Central Government has appointed the officers specified in the second column of the Schedule hereto as Crown Pleaders for the purposes of the said Order in relation to any suit by or against the Secretary of State or the Central Government not being a suit relating to-

(i) the Bengal and Assam Railway,

(ii) the Bombay Baroda and Central India Railway,

(iii) the East Indian Railway,

(iv) the Great Indian Peninsula Railway,

(v) the North Western Railway,

(vi) the Oudh and Tirhut Railway,

(vii) The Bengal Nagpur Railway,

(viii) the South Indian Railway,

(ix) the Madras and Southern Mahratta Railway, or

(x) the State Railways Coal Department, or against a public officer in the service of the Central Government, in any court specified in the first column of the said Schedule;

SCHEDULE.

Courts.	Officers.
The High Court of Bombay.	The Government Pleader, Bombay, and (for original side only) the Solicitor to the Central Government at Bombay.
The Court of Small Causes, Bombay.	The Solicitor to the Central Government at Bombay and Mr. S. Narayanaiah, B.A., LL.B.
Other Courts.	District Government Pleaders.

(3) By Government of India, Legislative Department, Notification, No. F. 223/42-I.C. & G.(Judl.), dated the 17th February 1942, as subsequently amended, the Central Government has authorised the officers appointed as Crown Pleaders by the Government of India notification referred to in sub-rule (2), to act in any court for which they have been so appointed,

(a) for the Crown in respect of any judicial proceeding by or against the Secretary of State or the Central Government, not relating to —

(i) The Bengal Assam Railway,

(ii) The Bombay, Baroda and Central India Railway,

iii) The East Indian Railway,

(iv) The Great Indian Peninsula Railway,

(v) The North Western Railway,

(vi) The Oudh and Tirhut Railway,

(vii) The Bengal Nagpur Railway,

(viii) The South Indian Railway,

(ix) The Madras and Southern Mahratta Railway, or

(x) The State Railways Coal Department,

(b) where the Central Government undertakes the defence of a suit against a public officer in the service of the Central Government, for such public officer.

(G.N.I. L.D. No. 9083 dated 14th December 1946).

KVY. 23/5.

No. BK/H.1461 of 1946-47

Government Central Press,
Bombay, 8th March 1947.

To

The Assistant Secretary to Government,
Legal Department, Secretariat, BOMBAY.

Reference: G.M.,L.D. No. 2186, dated 5-3-1947.

The Proofs of the Correction Slips have been sent on 6-3-1947.

It is presumed that the Gazette Mss. (herewith returned) received along with the Government Memorandum under reference were sent only for ready reference. Please confirm.

Sd/- Manager,
Government Central Press.

EVY. 23/3.

No. DAXII-27 CD/778-A Office of the Accountant Genera

Bombay, the 17th June 1947.

To

The Secretary to Government,
Legal Department, BOMBAY.

Subject:- Grant of Interims relief and Bonus to District Government Pleaders.

Sir,

I have the honour to state that Mr. Baig ~~Mr. Mulbaig~~ District Government Pleader and Public Prosecutor Poona has claimed the temporary relief and Bonus sanctioned by Government of Bombay under G.R. F.D. No. 6261/33 dated 16-9-1946 and 6261/33 dated 6-1-1947 respectively. Under Government F.D. letter No. 6261/33-B/ dated 5-2-1947 Government have decided not to extend the benefits of temporary additional Pay sanctioned in G.R. No. 6261/33-B dated 16-9-1946 to part time Government servants.

2. It has been held by this office that the District Govt. Pleaders and Public Prosecutors are part time Government servants and Mr. Baig was accordingly informed that he was not entitled to draw interim relief and bonus vide Govt. F.D. letter No. 6261/33-B dated 5-2-1947 and that the Amounts drawn by him previously on this account should be refunded. In reply the now represents that he is not a part time Government servant and as such he is entitled to these concessions.

3. I would therefore request you to state if the contention of this office that the District Government Pleaders and Public Prosecutors are part time Government servants is correct.

4. Favour of an early reply is requested.

Your obedient servant,

Assistant Accounts Officer.

No. 6627

Legal Department,

Bombay Castle, 3rd July 1947.

Subject:- Grant of Interim relief and Bonus to District Government Pleaders.

MEMORANDUM.

The undersigned presents compliments to the Accountant General, Bombay and with reference to para 3 of his letter No. D.A. XII/27-GD/770-A, dated the 17th June 1947, on the above subject is directed to state that the contention made by him that the District Government Pleaders and Public Prosecutors are part time Government servants is correct. His attention is also invited to this office Memorandum No. GR 6304, dated the 25th September 1943 addressed to him and to the Finance Department Memorandum No. 174/36504-F, dated the 27th January 1945, copies of which are enclosed for ready reference.

Sd/- B.D.P.
2/7

for Secretary to Government,
Legal Department.

To

The Accountant General,
Bombay.

ETC. 39/6.

No. 458

Office of the
Government Pleader, High Court,
Bombay, 15th February 1947.

From

S.G. Patwardhan, Esqr., B.A., B.Sc., LL.M.,
Government Pleader, High Court, Bombay.

To

The Secretary to Government,
Legal Department, Bombay.

Sir,

My I point out that Mr. S.B. Jathar, the Assistant Government Pleader, attends to Government cases before the Bombay Revenue Tribunal. When the Tribunal sits in Bombay, he gets a fee of Rs. 30/- only per case. This fee is very small, when the work involved is taken into consideration. At the time when this fee of Rs. 30/- was fixed, the minimum fee in the High Court in Civil Matters on the Appellate Side was Rs. 30/-. Since then, the High Court has raised that minimum fee to Rs. 45/-. I therefore submit that the fee in the Bombay Revenue Tribunal cases should similarly be raised to Rs. 45/-. The total amount that Mr. Jathar may get if this increase is made may not be a large amount. But I make this recommendation on a question of principle.

Your obedient servant,

Sd/-

Government Pleader, High Court.

EVF. 23/6.

R.I. No. 1979 dated 18.3.1947.

Submitted.

2. The G.P., High Court stated that Mr. S.B. Jathar, Assistant Government Pleader, High Court, attends to Govt. cases before the Bombay Revenue Tribunal and gets a fee of Rs. 30/- per case when the Tribunal sits in Bombay. This fee is very small considering the volume of work involved and was fixed on the analogy of minimum fee of Rs. 30/- in the High Court in civil matters on Appellate Side. The High Court has now raised the minimum fee to Rs. 45 and the G.P. therefore submits that the fee admissible in the Bombay Revenue Tribunal cases may similarly be raised to Rs. 45. He contends that the A.G.P. does not get a large amount by this income but he makes the recommendation on a question of principle.

3. Office note on the amendments of rule 16 of Law Officers (C. of S.) Rules is at sub-para. (2) of para. 3 at page 49 and F.D. acceptance thereof is in para 5 of the F. D. note at page 8 57 of Com. L.O.R. Accts/41 placed below. In view of the High Court's action raising the minimum fee in civil matters on the Appellate Side from Rs. 30 to Rs. 45 perhaps the fee of Rs. 30 prescribed in rule (C 1) of rule 16 of the Law Officers (C. of S.) Rules may be raised to Rs. 45 after U.O.R. to the F.D.

Id. 17.3.47

22. 19.3

S.A.S.: The request is reasonable.

R.V. - 19.3

U.D. to F.D. No. 2767 dated 22.3.47.

SVI. 23/3.

Finance Department 'F'

Please see-

(i) Para. 3 (2) of L.D. note at p. 49 of L.D. file No. L.O.R./Accotts/41; and

(ii) Para. 5 of F.D. note at p. 67 of L.D. file No. L.O.R./Accotts/41.

From (i) above it is seen that the G.P., H.C., had not suggested any rates of fee for the Revenue Tribunal cases but that the L.D. suggested the rates of Rs. 30 for G.P., H.C., and Rs. 20 for other G.Ps. This dept. Agreed to the rates as a reasonable. It is presumed the proposal in those papers does not involve any increase in the other rates sanctioned in the rules. If so the increase proposed may be agreed to as a special case.

V.M.J.- 26/3.

U.o.r. to L.D. dated 26-3-47 (with file)

EVY. 23/5.

Legal Department.
H.I. No. 3791/33-3.

Submitted.

The Finance Department has agreed to our proposal to raise the fee prescribed in clause (C1) of rule 16 of the Law Officers (C.of S.) Rule from Rs. 30 to Rs. 45 on the presumption that the proposal does not involve any increase in the other rates sanctioned in the rules. The presumption of the Finance Department is correct. This change will involve the amendment of rule 16 (C1) of the Law Officers Rules. Necessary amendment is put up and may be issued after H.M. (L) has approved.

D.S.P. -21-4-47

(Thro' D)

JD-22/4

ETY. 23/5.

Under rule 16 (C.1) of the Law Officers (Conditions of Service) Rules the Government Pleader, High Court, is entitled to a fee of Rs. 30 in every case in which he is required to appear before the Bombay Revenue Tribunal. For the reasons stated in his letter dated 15.2.47 at p. 1 ante it is proposal to raise the fee to Rs. 45. The F.D. has agreed to theincrease proposal as a special case. It is not proposal to raise the fee of Rs. 20 payable to other Government Pleaders in such cases under rule 21 (2A).

If approved, the attaching notification at p. 9 post making the necessary amendment in rule 16 (C.1) may issue.

S.A.S. Sd/- 6/5/47

A.A.L.R. Sd/- 6.5

A.L.R. Sd/- 7/5

EVY. 23/5.

NOTIFICATION.

Legal Department,
Bombay Castle, 15th May 1947.

Government of India Act, 1935.

— No. 4923 . — In exercise of the powers conferred by clause (b) of sub-section (2) of section 241 of the Government of India Act, 1935, the Governor of Bombay is pleased to amend the Bombay Law Officers (Conditions of Service) Rules, 1939, as follows, namely:—

In clause (2-A) of rule 16 of the said rules, for the letters and figures "R. 30", the letters and figures "R. 45", shall be substituted.

By order of the Governor of Bombay

P.M. LAD,
Secretary to Government.

No. 4924
Legal Department,
Bombay Castle, 15th May 1947.

Forwarded with compliments to the Manager, Government Central Press, Bombay for publication of Part IV-A of the Bombay Government Gazette, with a request that 25 copies of the notification may be supplied to this Department, as soon as possible.

2. It is also requested that the type should be kept standing until further orders from this Department regarding printing of the correction slips.

By order of the Governor of Bomb

Sd/-
for Secretary to Government.

EVT. 33/5.

No. 4965

Legal Department,
Bombay Castle, 15th May 1947.

Advance copy forwarded to the Accountant General, Bombay, with reference to paragraph 2 of his letter No. D.A. III 27 Presy/1995, dated the 3rd January 1942.

Sd/- 14/5.
For Secretary to Government.

EVY. 23/5.

No. 5417

Legal Department,
Bombay Castle, 26th May 1947.

The Government Pleader,
High Court, Bombay.

Subject :- Increase in fees in Revenue Tribunal Cases.

Sir,

With reference to your letter No. 468, dated the 15th February 1947, I am directed to invite your attention to Government Notification, Legal Department No. 4963, dated the 15th May 1947 amending clause (1) of rule 16 of Bombay Law Officers (conditions of Service) Rules. The amended rule raise the rate of fee in a Bombay Revenue Tribunal Case from Rs. 30 to Rs. 45.

Your obedient servant,

Sd/-

for Secretary to Government.

EVY. 23/5.

LEGAL DEPARTMENT.

Bombay Castle, 15th May 1947.

Government of India Act, 1935.

No. 4963 :- In exercise of the powers conferred by clause (b) of sub-section (3) of section 241 of the Government of India Act, 1935, the Governor of Bombay is pleased to amend the Bombay Law Officers (Conditions of Service) Rules, 1939, as follows namely:-

In clause (C-1) of rule 16 of the said rules, for the letters and figures "R.S. 30", the letters and figures "R. 45", shall be substituted.

By order of the Governor of Bombay,

P.M. LAD,

Secretary to Government.

EVY. 23/5.

Legal Department.

Submitted with reference to office note at page 39 ante.

Rule 47(2) of the Rules for the Conduct of the Legal Affairs of Government reads as follows:-

> "(2) The Government Pleader in the High Court will forward every such application direct to the Legal Remembrancer, with his opinion thereon. The District Government Pleader shall send such application, with his remarks, to the Collector who will forward it with his opinion to the Legal Remembrancer, through the District Judge."

The rule merely refers to the applications being forwarded to the R.L.A. As pointed out by the A.A.L.R. in his note at page 21 ante it does not expressly provide for the appointments of the Honorary Asstts. by the R.L.A. In order to remove this lacuna it is proposed to amend the said rule 47(2). Draft notification at page 39 ante as amended is for approval.

Please see R.L.A's note at page 19 and his order at page 33 ante. It appears that the proposed provision can best be made by inserting a new rule 46 A in chapter VII of the L.O.Rs. A revised draft notification is accordingly put up for approval.

Id. - 14/8/47.

A.A.S. I agree with Mr. Deshmukh. Put S.A.P., may please see as the comes from B branch.

I do not like chapter VII beginning with an add rule e.g. 46 A. Amendment may be made in rule 47 (2) on the following lines:-

To sub-rule (2) of rule 47 the following shall be added namely:

The Legal Remembrancer may if he thinks the applicant suitable, appoint them as Honorary Assistant.

Please put up notification accordingly and prepare a note for submission to H.M. (L) if it is necessary in the case.

Sh. - 22/8.

EVY. 23/5.

Legal Department.

Submitted.

Rules under chapter VII of the Law Officers' Rules regulate the appointment and service of the Honorary Assistants to Government Pleaders. Sub-rule (1) of rule 47 prescribes the qualifications that a candidate should possess for appointment as Honorary Assistants. Sub-rule (2) lays down procedure for the guidance of the Government Pleader High Court, Bombay and the District Government Pleaders for forwarding such applications to the Legal Remembrancer. Sub-rule (3) prescribes the term of appointment of the Honorary Assistants. Sub-rules (4) & (5) lay d certain directions to Government Pleaders with regard to th work to the done by the Honorary Assistants. Sub-rule (6) requires the Government Pleaders to submit a report stating the general nature of the duties entrusted to Honorary Assi. stants etc. Sub-rule (7) refers to the termination of the appointment of the Honorary Assistants. Sub-rule (8) refers to the number of Honorary Assistants to l appointed. Sub-rule (9) requires the collectors and District Judges to give due consideration to the claims of the backward communities while making recommendations.

2 The appointments of the Honorary Assistants are made by the ~~XX~~ H.L.A. though no such specific provision appears in the rule as pointed out above. It is therefore intended to make the position clear by amending the said rule.

3. The requisite draft notification is submitted herewith for approval of Government.

NOTIFICATION.

Legal Department.

Bombay Castle, 12th September 1947.

No. 9133 The Governor of Bombay is pleased to amend the Bar Officers' Rules, as follows, namely:-

To sub-rule (2) of rule 47 of the said rules, the following shall be added, namely:-

"The Legal Remembrancer may them, if he considers the applicant suitable appoint him as Honorary Assistant".

By order of the Governor of Bombay,

P.M. IAD,
Secretary to Government.

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No. 9134
Legal Department.
Bombay Castle, 12th September 1947.

Forwarded with compliments to the Manager, Government Central Press, Bombay, for publication in Part IV-A of the Bombay Government Gazette, with a request that 25 Gazette copies of the notification may be supplied to this Department, as soon as possible.

By order of the Governor of Bombay,

Sd/-
for Secretary to Government.

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No. 9135
Legal Department.
Bombay Castle, 12th September 1947.

Advance copy forwarded to the Accountant General, Bombay, with reference to paragraph 2 of his letter No. D.A. III, 2F/Press/1895 dated the 3rd January 1945.

Sd/- Sb. - 8/9

EVT. 23/8 for Secretary to Governme-